IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1051 of 2001
to
FIRST APPEAL No 1069 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPECIAL LAND ACQUISITION OFFICER

Versus

AMBALAL BHUDARDAS PATEL & OTHERS

Appearance:

MS RV ACHARYA AGP for Petitioners

MR KM SHETH for Respondent - claimants

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 26/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. This group of 19 First Appeals preferred by the Special Land Acquisition Officer, Narmada Yojana No.3, Ahmedabad and the Executive Engineer, Narmada Yojana, Section 43, Kadi, under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908 are directed against the award dated 17.2.2000 passed by the Assistant Judge, Mehsana in Land Acquisition Reference Cases No.2743/96 to 2761/96, the Land Reference Case No.2750/96 being the main Land Reference Case.

2. The lands of Village Narsinhpura, Taluka Kadi, District Mehsana were sought to be acquired for Sardar Sarovar Scheme. For this purpose, the notification under Section 4 was issued on 21.6.1992 and the notification under Section 6 was issued on 18.8.1993. The award was passed by the Land Acquisition Officer on 31.7.1995 in Land Acquisition Case No.56/92 determining the rate of compensation as Rs.2.70 per sq. mtr. The claimants did not feel satisfied and took the matter for Reference under Section 18 claiming compensation @ Rs.40/- per sq. mtr. The Reference Court passed the order on 17.2.2000 determining the rate of compensation as Rs.26.70 per sq. mtr. by making Rs.24/- as additional compensation over and above what had been granted by the Land Acquisition Officer. It is this common judgment and order dated 17.2.2000 which is the subject-matter of challenge in these appeals.

3. The learned Assistant Government Pleader has submitted that the Reference Court has passed the impugned order relying upon the previous award at Exh.13 in Land Acquisition Reference No.4/99 wherein the compensation was directed to be paid @ Rs.28/- per sq. mtr. in case of village Vidaj wherein the notification under Section 4 had been published on 29.8.1991 and the market value was determined by the Reference Court on the basis of the Land Acquisition References No.58/93 to 61/93 wherein the District Court had determined the rate @ Rs.20/- per sq. mtr. for the lands of village Dhudhai wherein the notification under Section 4 had been published on 11.12.1986. It has been pointed out that village Vidaj is at a distance of 1.5 kms. from Narsinhpura and, therefore, the award at Exh.13 pertaining to village Vidaj should not have been relied upon. The appellants have failed to show and establish before the Reference Court as well as before this Court that the lands of village Vidaj, which were the subject-matter of previous Land Acquisition Reference No.4/99 at Exh.13, and the lands of village Narsinhpura under acquisition in the present cases, are not

comparable. Rather, it is found that these two sets of lands are quite comparable and in case of village Vidaj the notification under Section 4 was issued on 29.8.1991 and in the instant case the notification under Section 4 was issued on 21.6.1992, i.e. about ten months later, and yet compensation has been granted @ Rs.26.70 per sq. mtr. only in the present case as compared to that of village Vidaj in which compensation was granted @ Rs.28/- per sq. mtr. We do not find that the order passed by the Reference Court requires any interference.

4. Besides this, it has been pointed out by Mr.Sheth that in case of village Nani Kadi, which is yet another nearby village, compensation granted by the Reference Court @ Rs.28.60 per sq. mtr. was made the subject-matter of challenge before this Court in case of First Appeals No.161 to 218 of 2001 and in those appeals, the rate of compensation as Rs.28.60 per sq. mtr. was upheld by this Court. The award which was passed in case of village Vidaj on the basis of the award which had been earlier passed in case of village Nani Kadi, has been accepted by the Government, and it has been submitted that the lands of village Narsinhpura are quite nearer to village Vidaj within the periphery of 1.5 kms. only and on the basis of the evidence which has come on record through the deposition of Mr. Patel Vinodchandra Shivabhai and even the depositions made by departmental witnesses Mr.Ambalal Gordhanbhai Patel (Exh.9) and Mr.Haribhai Naranbhai (Exh.15), who is the Gram Sevak of village Nani Kadi, it is clear that these lands are having the same fertility.

5. In this view of the matter, we do not find any basis to interfere with the rate of Rs.26.70 per sq. mtr. at which the compensation has been directed to be paid to the claimants in the present cases. There is no merit in these 19 appeals. The same are hereby dismissed with no order as to costs.

6. It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date the certified copy of this order is served upon the concerned authorities by either of the parties.

Sd/-

(M.R.Calla, J.)

Sd/-

26.4.2001 (D.H.Waghela,J.)

(KMG Thilake)